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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,050	12/13/2001	Sudhindra Pundaleeka Herle	SAMS01-00184	6585

7590 11/26/2004

Docket Clerk
P.O. Box 800889
Dallas, TX 75380

EXAMINER

NGUYEN, HUY D

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,050

Applicant(s)

HERLE ET AL.

Examiner

Huy D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/27/2004 have been fully considered but they are not persuasive.

In response to the arguments pertaining to claim 1, the examiner states that claim 1, as broadly claimed, does not point out whether the auxiliary device is a separate entity from the communications device or the auxiliary device is integrated into the communications device. Therefore, the battery pack 100 reads on the limitation "auxiliary device" and the cell phone as a whole reads on "communications device". "Software", as broadly claimed in claim 1, does not clarify if it is a program or just data. Therefore, limitation "software to be installed" is read on by "data to be displayed" (col. 15, line 61).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Kikinis (U.S. Patent No. 6,243,596).

Regarding claims 1, 8, 15, Kikinis teaches that for use in a communications system, an apparatus for wireless software download to a wireless communications device capable of Internet access comprising: an auxiliary device (e.g. battery pack adapter 100) including

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sufficient storage for holding software to be downloaded (col. 18, lines 38-60); and a connection between the wireless communications device and the auxiliary device (col. 15, lines 34-38), wherein the software to be downloaded is retrieved from a remote server through a wireless connection for the wireless communications device to the auxiliary device and installed from the auxiliary device onto the wireless communications device (col. 15, lines 12-13).

Regarding claims 2, 9, 16, Kikinis teaches the apparatus according to claim 1, wherein the auxiliary device lacks a connection to the remote server independent of the connection between the wireless communications device and the auxiliary device (col. 15, line 37).

Regarding claims 3, 10, 17, Kikinis teaches the apparatus according to claim 1, wherein the wireless communications device lacks sufficient storage to hold the software to be downloaded in addition to existing software within the wireless communications device (col. 15, line 38-56).

Regarding claims 4, 11, 18, Kikinis teaches the apparatus according to claim 1, wherein the software to be downloaded is retrieved by the auxiliary device from the remote server through an Internet connection provided by the wireless communications device (col. 15, lines 11-13).

Regarding claims 5, 12, 19, Kikinis teaches the apparatus according to claim 1, wherein the wireless communications device is a mobile telephone and the auxiliary device is a personal digital assistant (col. 15, lines 10-17).

Regarding claims 6, 13, 20, Kikinis teaches the apparatus according to claim 1, wherein the software downloaded to the auxiliary device, when installed on the wireless communications

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device, replaces software on the wireless device at a time of the software download (col. 15, lines 51-61).

Regarding claims 7, 14, Kikinis teaches the apparatus according to claim 1, wherein the software downloaded to the auxiliary device is retained after installation on the wireless communications device and reused for installation on other similar wireless communications devices (col. 15, lines 51-61).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D Nguyen whose telephone number is 703-305-3283. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HN

Huy Nguyen


DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600